

REMARKS

Favorable reconsideration is requested in view of the above amendments and following comments. Claims 4 - 7 and 12 - 13 have been cancelled without prejudice in order to reduce fees, not for patentability reasons. Claims 18 - 25 have been cancelled without prejudice. Editorial amendments have been made to claims 1 and 10 and are supported, for example, at least at page 8, lines 24 - 30; page 9, lines 5 - 10; and page 10, lines 1 - 6, 10 - 14, and 18 - 24 of the specification. Claims 26 - 47 have been added and are supported, for example, at least at page 9, lines 14 - 19 and 22 - 28 and claims 1 - 3, 8 - 11, and 14 - 17 of the specification. No new matter has been added. Claims 1 - 3, 8 - 11, 14 - 17, and 26 - 47 are pending in the application.

Election/Restriction

Claims 18 - 25 have been cancelled.

Rejection under 35 U.S.C. § 112

Claims 5 - 6 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection, and respectfully request reconsideration in view of the following comments. Applicants do not concede the correctness of the rejection.

Claims 5 - 6 have been cancelled. Withdrawal of the rejection is requested.

Rejection under 35 U.S.C. § 102

Claims 1 - 7 and 14 - 15 were rejected under 35 U.S.C. § 102(e) as being anticipated by Todd, Jr. (U.S. Patent No. 6,099,879). Applicants respectfully traverse this rejection, and respectfully request reconsideration in view of the following comments.

Claims 1, 26, and 39 require irradiating the food product with amounts less than the approved maximum level for particular food products as provided in claims 1, 26, and 39. Todd, Jr. does not disclose or suggest this limitation. For example, ground beef was irradiated with 4.5 kGy, turkey was irradiated at 3 kGy, pork was irradiated at 4.5 kGy, chicken was irradiated at 3.5 kGy, and frozen meat was irradiated at 7 kGy. See column 9, lines 4 - 6; column 11, lines 47 - 49; column 12, lines 10 - 20; column 13, lines 40 - 41; and column 13, lines 60 - 62 of Todd, Jr.,

respectively. All amounts are above the values claimed in the present invention. Withdrawal of the rejection is requested.

Claims 1 - 7 and 14 - 15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ottke et al. (U.S. Patent No. 3,057,735). Applicants respectfully traverse this rejection, and respectfully request reconsideration in view of the following comments.

Claim 1 requires irradiating the food product with amounts less than the approved maximum level for particular food products as provided in claim 1. Ottke et al. do not disclose or suggest this limitation. In particular, Ottke et al. do not disclose or suggest an irradiation amount for poultry, food additives and food ingredients, poultry feed, spices, dried vegetable seasonings, or herbs. And the amount, at least 65,000 rep (~ 0.65 kGy), disclosed for pork, is higher than that required for claim 1. See column 3, lines 18 - 26 of Ottke et al.

Claims 1 and 26 require contacting the food product with an antimicrobial agent, the antimicrobial agent comprising peroxycarboxylic acid, fatty acid, halogen containing antimicrobial agent, quaternary ammonium antimicrobial agent, peroxide, condensed phosphate, or mixtures thereof. Ottke et al. do not disclose or suggest this limitation. In particular, Ottke et al. disclose the use of tetracycline antibiotics. See column 2, lines 47 - 60 of Ottke et al. Ottke et al. do not disclose or suggest the use of the particular antimicrobial agents listed in claims 1 and 26.

Claim 39 requires contacting the food product with an antimicrobial agent, the antimicrobial agent comprising peroxycarboxylic acid. Ottke et al. do not disclose or suggest contacting the food product with an antimicrobial agent comprising peroxycarboxylic acid.

Withdrawal of the rejection is requested.

#### Rejection under 35 U.S.C. § 103

Claims 8 - 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ottke et al. in view of Hilgren et al. (U.S. Patent No. 6,514,556). Applicants respectfully traverse this rejection, and respectfully request reconsideration in view of the following comments.

Ottke et al. are distinguished above as failing to disclose or suggest irradiating particular food products with particular amounts of irradiation. Hilgren et al. is relied upon for teaching the treating of food with peroxyacetic acid, peroxyoctanoic acid, or densified versions of each. Even

if it does, which is not be conceded, this reference fails to remedy the noted shortcomings of the other reference. Thus, withdrawal of the rejection is requested.

Conclusion

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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